

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED

APR 29 2011

PATRICK E. DUFFY, CLERK
By DEPUTY CLERK, MISSOULA

JAMES LEE LARSON,

Cause No. CV-11-00022-H-DWM-RKS

Plaintiff,

vs.

RECOMMENDATION AND ORDER

CUSTER COUNTY DISTRICT
COURT, LEWIS AND CLARK
COUNTY DISTRICT COURT, and
YELLOWSTONE COUNTY
DISTRICT COURT,

Defendants.

Plaintiff James Lee Larson has filed a Motion to Proceed in forma pauperis (C.D. 1) in his thirty-ninth prisoner civil rights complaint filed in this Court since February 2008. (C.D. 2). The Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

Permission to proceed in forma pauperis is discretionary with the Court. *See* 28 U.S.C. § 1915(a). In Judge Molloy's Orders of Dismissal of Civil Action Nos. 09-CV-00011-H-DWM-RKS and 09-CV-00012-H-DWM-RKS, Larson was required to show cause in any future motions to proceed in forma pauperis why the

motion should not be denied under the three strikes provision of the Prison Litigation Reform Act.¹ Larson's motion to proceed in forma pauperis made no such showing. Accordingly, Larson's motion to proceed in forma pauperis should be denied.

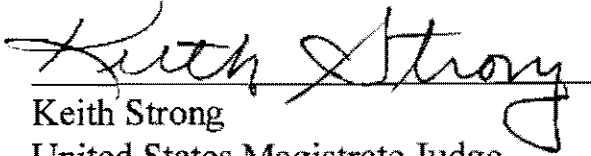
While the Court ordinarily gives litigants an opportunity to pay the \$350.00 filing fee, it will not do so in this case. Larson has a history of abusing the system and filing repetitive, frivolous lawsuits. Long before he filed this action, Larson knew, from his previous filings, he probably would not be permitted to proceed in forma pauperis.

Because Larson is not entitled to a ten-day period to object, this Order will be entered directly upon endorsement. *See Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam). No motion for reconsideration will be entertained.

¹Larson has been issued strikes pursuant to 28 U.S.C. § 1915(g) for failure to state a claim in the following seven cases: Civil Action Nos. 08-CV-02-H-DWM (§ 1983 action filed February 13, 2008; closed June 24, 2008); 08-CV-044-BU-SEH-RKS (§ 1983 filed July 28, 2008; closed September 15, 2008); 08-CV-051-BU-SEH-RKS (§ 1983 filed August 8, 2008; closed September 29, 2008); 08-CV-052-BU-SEH-RKS (§ 1983 filed August 8, 2008; closed September 29, 2008); 08-CV-054-BU-SEH-RKS (§ 1983 filed August 8, 2008; closed September 29, 2008); 08-CV-058-GF-SEH-RKS (§ 1983 filed August 12, 2008; closed September 30, 2008); 08-CV-057-H-DWM-RKS (§ 1983 filed August 12, 2008; closed September 30, 2008).

Accordingly, the Court **RECOMMENDS** the following Order be issued by Judge Molloy.

DATED this 25 day of April, 2011.

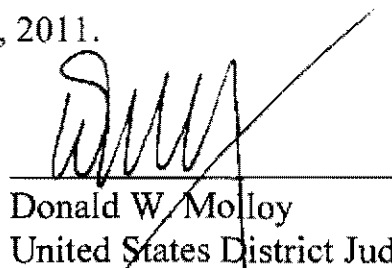

Keith Strong
United States Magistrate Judge

Based upon the above Recommendation by Judge Strong, the Court issues the following:

ORDER

1. Larson's Motion to Proceed in Forma Pauperis (C.D. 1) is **DENIED** pursuant to 28 U.S.C. § 1915(g).
2. The Clerk of Court is directed to close the case.
3. No motions for reconsideration or rehearing will be entertained and the Clerk of Court is directed to discard any such motions.

DATED this 29 day of April, 2011.


Donald W. Molloy
United States District Judge